

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
)	
DURA AUTOMOTIVE SYSTEMS, INC.,)	Case No. 06-11202 (KJC)
<u>et al.</u> , ¹)	
)	Jointly Administered
Debtors.)	
)	

**STIPULATION RESOLVING CLAIM OF
THE UNITED STATES OF AMERICA ON BEHALF OF
THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY IN CONNECTION WITH
THE MAIN STREET WELL FIELD SUPERFUND SITE (CLAIM NO. 3043)**

This stipulation (the "Stipulation") entered into as of the date indicated below, by and between Dura Automotive Systems, Inc. and certain of its subsidiaries (collectively, the "Debtors") and the United States of America (the "United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), collectively referred to as the Parties, is as follows:

WHEREAS, on October 30, 2006 (the "Petition Date"), the Debtors filed voluntary petitions for reorganization (the "Bankruptcy Cases") under chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, as amended (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Court");

WHEREAS, on or about April 27, 2007, the United States filed a proof of claim ("Claim No. 3043") against the Debtors in these Bankruptcy Cases (the "EPA Claim");

WHEREAS, the EPA Claim asserts certain claims on behalf of EPA pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42

U.S.C. §§ 9601, *et seq.*, for unreimbursed response costs incurred and to be incurred by the United States totaling at least \$805,266 with respect to the Main Street Well Field Superfund Site, East Side, located in Elkhart, Indiana (the “Site”);

WHEREAS, the Site was Debtor-owned as of the Petition Date, and was subsequently sold pursuant to Section 363 of the Bankruptcy Code, with a closing date of August 27, 2007;

WHEREAS, on June 27, 2008 (the “Effective Date”), the Debtors consummated the transactions contemplated by the *Debtors’ Revised Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code (With Further Technical Amendments)* (as it has been amended, modified and supplemented, the “Plan”), dated May 12, 2008, as confirmed by the order (the “Confirmation Order”) of the Court entered on May 13, 2008; and

WHEREAS, the Parties hereto, without admission of liability by any party or any adjudication on any issue of fact or law, desire to fully and finally settle, compromise and resolve the EPA Claim.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration receipt of which is hereby acknowledged, IT IS HEREBY STIPULATED AND AGREED TO by and among the Parties hereto, subject to approval by the Court, as follows:

Jurisdiction

1. This Court has jurisdiction over the subject matter hereof pursuant to 28 U.S.C. §§ 157 and 1334.

¹ The “Debtors” comprise the entities set forth in the order entered by the Court on October 31, 2006, jointly administering these cases pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

Binding Agreement; Successors and Assigns

2. This Stipulation applies to, is binding upon and shall inure to the benefit of the Parties hereto and their legal successors and assigns; *provided, however*, that any such successor or assign shall receive the benefit of the covenant not to sue set forth in this Stipulation only in its capacity as a successor and/or assign and not with respect to any liability that such party would have in its own capacity if it were not a successor or assign.

Allowance of Claims

3. That portion of the EPA Claim relating to response costs incurred after the Petition Date through August 27, 2007 shall be allowed as an Administrative Expense Claim (as defined by the Plan) in the amount of \$17,743, and shall be satisfied in accordance with the terms of the Plan (the "Allowed Administrative Expense Claim"). The United States shall be deemed to have withdrawn any portion of the EPA Claim relating to response costs incurred after the Petition Date through August 27, 2007 for any amount in excess of \$17,743.

4. That portion of the EPA Claim relating to response costs incurred prior to the Petition Date, or after August 27, 2007, shall be allowed as a General Unsecured Claim (as defined by the Plan) in the amount of \$603,949, and shall be satisfied in accordance with the terms of the Plan (the "Allowed General Unsecured Claim"). The United States shall be deemed to have withdrawn any portion of the EPA Claim relating to response costs incurred prior to the Petition Date, or after August 27, 2007, for any amount in excess of \$603,949.

5. The Allowed Administrative Expense Claim and the Allowed General Unsecured Claim (collectively, the "Allowed Claims") shall not be subordinated to other claims of the same class and priority, pursuant to any provision of the Bankruptcy Code or other applicable law that may be contended to authorize or provide for subordination of allowed claims, including sections 105 and 510 of the Bankruptcy Code.

Claim Distributions

6. Cash received by EPA (or net cash received by EPA on account of monetization of non-cash distributions) with respect to the Allowed Claims shall either be: (a) deposited in a site-specific special account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or (b) transferred by EPA to the EPA Hazardous Substance Superfund.

7. Cash distributions on account of the Allowed Claims shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox in accordance with written instructions to be provided by the United States to the Debtors after execution of this Stipulation. Any EFTs or wire transfer received at the U.S. Department of Justice lockbox after 11:00 a.m. (Eastern Time) will be credited on the next business day. Non-cash distributions to the United States with respect to the Allowed Claims shall be made to:

U.S. EPA – Superfund
P.O. Box 371003M
Pittsburgh, PA 15251

8. Only the amount of cash received by EPA (or net cash received by EPA on account of monetization of non-cash distributions) pursuant to the Plan on account of the Allowed Claims, and not the total amount of the Allowed Claims, shall be credited by EPA to its account for the Site, which credit shall reduce the liability of non-settling potentially responsible parties to EPA for the Site by the amount of the credit; provided, however, that the Debtors shall be deemed to have satisfied the full amount of the Allowed Claims.

9. All available distributions on account of the claim allowed hereunder shall be made pursuant to the Plan at the earliest possible date after entry of this Stipulation by the Court. Any additional distributions shall be made consistent with the terms of the Plan.

Covenants Not to Sue

10. In consideration of the distributions that will be made under the Plan on account of the claim allowed by the terms of this Stipulation, and except as provided in paragraph 11 below, the United States covenants not to bring a civil action or take any administrative action against the Debtors pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, relating to the Site. This covenant not to sue is conditioned upon Court approval of this Stipulation and complete and satisfactory performance by the Debtors of their obligations under this Stipulation. This covenant not to sue extends only to the Debtors and does not extend to any other person.

11. The covenant not to sue set forth in the previous paragraph does not pertain to any matters other than those expressly specified in the previous paragraph. The United States reserves, and this Stipulation is without prejudice to, all rights against the Debtors with respect to all other matters, and specifically with respect to: (a) any criminal liability; (b) liability for damages for injury to, destruction of or loss of natural resources with respect to the Site; (c) claims based on a failure by the Debtors to meet a requirement of this Stipulation; (d) liability arising from any alleged ownership or operation of the Site, or upon the transportation, treatment, storage or disposal, or the arrangement for the transportation, treatment, storage or disposal of hazardous substances at or in connection with the Site, after the date of signature of this Stipulation by the Debtors; and (e) claims for any site other than the Site.

12. The Debtors covenant not to sue and agree not to assert any claims or causes of action against the United States with respect to the Site, including but not limited to: any direct or indirect claim for reimbursement from the Hazardous Substance Superfund; any claims against the United States, its departments, agencies or instrumentalities; and any claims arising out of response actions at or in connection with the Site. Nothing in this Stipulation shall

be construed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d). The covenant not to sue in this paragraph shall not apply in the event that the United States brings a cause of action or issues an order pursuant to the reservations set forth in paragraph 11(b), (d) or (e) of this Stipulation, but only to the extent that the Debtors' claims arise from the same response action, response costs or damages that the United States is seeking pursuant to the applicable reservation.

Contribution Protection

13. With regard to claims for contribution against the Debtors for "matters addressed" in this Stipulation, the Debtors are entitled to such protection from contribution actions or claims as is provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2). The "matters addressed" in this Stipulation are all response actions taken or to be taken, and response costs incurred or to be incurred, at or in connection with the Site by the United States or any other person. The "matters addressed" in this Stipulation do not include those response costs or response actions as to which the United States has reserved its rights under this Stipulation in the event the United States asserts rights against Debtors coming within the scope of such reservations.

Authority

14. The Debtors' entry into this Stipulation is permitted under the Plan and the Confirmation Order.

15. The signatories for the parties each certify that he or she is authorized to enter into the terms and conditions of this Stipulation and to execute and bind legally such party to this document.

16. Nothing in this Stipulation shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Stipulation.

Lodging Order; Public Comment; Right to Withdraw;
Motion for Approval and Entry of this Stipulation

17. Prior to entry of this Stipulation by the Court, this Stipulation shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment. The United States reserves the right to withdraw or withhold its consent from this Stipulation if the public comments regarding this Stipulation disclose facts or considerations that indicate that this Stipulation is inappropriate, improper or inadequate. Following the close of the public comment period, if the United States does not withdraw or withhold its consent, the United States will file a motion for approval and entry of this Stipulation by the Court or notice that no public comments were received. The Debtors consent to entry of this Stipulation without further notice.

18. If this Stipulation is not authorized and approved by the Court, or if the United States exercises its right to withdraw or withhold its consent under Paragraph 17 above, this Stipulation shall be of no force and effect, whereupon nothing herein shall be deemed an admission of any fact or waiver of any right of any party with respect to the matters contained herein.

Miscellaneous

19. This Stipulation represents the complete agreement between the Debtors and the United States with regard to the EPA Claim, and supersedes all prior agreements, understandings, promises and representations made by the Debtors and the United States concerning such claim. This Stipulation may not be amended, modified or supplemented, in whole or in part, without the prior written consent of the parties hereto and the entry of an approval order by the Court.

20. The approval of this Stipulation by the Court, together with the filed EPA Claim, shall be deemed to satisfy the requirement for filing by the United States of a proof of claim, an application for payment of an administrative expense or any other request, demand or filing for environmental claims and obligations and for the disbursement to the United States of funds as set out herein. No further proof of claim, application for payment of administrative expense or other request, demand or filing by the United States shall be required.

21. Nothing herein shall modify, limit or impair the scope, nature or effect of the discharge of claims and related injunctions under section 1141 of the Bankruptcy Code, the terms of the Plan and the Confirmation Order, nor shall anything herein otherwise be deemed to modify any provision of the Plan or the Confirmation Order.

22. This Court retains jurisdiction to enforce the terms of this Stipulation and all matters related thereto.

23. The Debtors and the Clerk of this Court are authorized to take such actions as are necessary and appropriate to give effect to this Stipulation.

24. Each Party executing this Stipulation represents that such party has the full authority and legal power to do so. This Stipulation may be executed in counterparts and each such counterpart together with the others shall constitute one and the same instrument. The Parties further agree that facsimile signatures hereon shall be deemed to be original signatures.

FOR THE UNITED STATES:

W. BENJAMIN FISHEROW
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division

Dated: ^{October 24}~~July~~____, 2008

By: ROBERT W. DARNELL
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Environment and Natural Resources Division
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FOR THE DEBTORS:

Dated: ^{SEP 4}~~July~~____, 2008

By: MARTHA R. MOYER
Dura Automotive Systems, Inc.
General Counsel

